

DOCKET SECTION

LabOne, et al.-T-1
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**BEFORE THE
POSTAL RATE COMMISSION
WASHINGTON, D.C. 20268**

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Postal Rate and Fee Changes, 1997

Docket No. R97-1

DIRECT TESTIMONY

OF

**THOMAS D. CROWLEY
President
L. E. Peabody & Associates, Inc.**

ON BEHALF OF

**LabOne, Inc.
Osborn Laboratories, Inc.
Clinical Reference Laboratory, Inc.**

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Due Date: February 20, 1998

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**DIRECT TESTIMONY
OF
THOMAS D. CROWLEY**

I. INTRODUCTION

My name is Thomas D. Crowley. I am President of the economic consulting firm of L. E. Peabody & Associates, Inc. The firm's offices are located at 1501 Duke Street, Suite 200, Alexandria, Virginia 22314. I have, on numerous prior occasions, presented evidence on economic ratemaking and cost finding principles before the Interstate Commerce Commission (now the Surface Transportation Board), Federal Energy Regulatory Commission ("FERC"), public utility commissions, arbitration panels, and state and federal courts. In addition, I presented evidence before the Postal Rate Commission ("PRC") regarding rates for Third Class Bulk Rate Regular ("TCBRR") and Fourth Class mail in Docket No. R90-1, Postal Rate and Fee Changes, 1990. I also submitted evidence in PRC Docket No. MC95-1, Mail Classification Schedule, 1995 Classification Reform I, regarding the United States Postal Service's ("USPS") rate proposal for Standard (A) mail.

I have been requested by LabOne, Inc., Osborn Laboratories, Inc. and Clinical Reference Laboratory (jointly referred to as "LabOne, et al.") to review the USPS' proposed surcharge on Hazardous Medical Materials ("HMM"). LabOne, et al. are the three largest providers of Risk Assessment Testing services to the life insurance industry. Risk Assessment Testing consists of the chemical or biological analysis of blood, urine, or oral fluid samples taken from a life insurance applicant at the applicants' home or place of business. LabOne, et al. does not

actually collect the clinical specimens from the applicants, but receives the samples via various carriers, including the USPS. Samples sent via the USPS are sent by First Class, Business Reply mail ("BRM"). The clinical specimens sent via the USPS are considered hazardous materials as described in the Domestic Mail Manual ("DMM") and must meet various packaging, label and quantity requirements and postal regulations to be accepted.

The USPS' surcharge for HMM will have a significant impact on the postal charges incurred by LabOne, et al. Table 1 below summarizes LabOne, et al.'s volume and average rate for 1997. Table 1 below also quantifies the impact of the USPS' proposed surcharge for HMM.

<p>Table 1 Summary of LabOne, et al. Volume and Average Rate -- 1997</p>	
Item (1)	Amount (2)
1. Number of Pieces	1,671,842
2. Average Rate Piece	\$0.57
3. Impact of Surcharge	
a. Proposed HMM Surcharge - Per Piece	\$0.50
b. Rate Including Surcharge - Per Piece (L2 + L3a)	\$1.07
c. Percent Increase (L3a ÷ L2)	87%

As shown in Table 1 above, LabOne, et al. mailed 1.7 million pieces in 1997 at an average rate of \$0.57 per piece. If the HMM surcharge of \$0.50 per piece is applied to the average rate, the postal rate will increase by 87 percent to \$1.07 per piece.

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1 My analysis and response to USPS Witness Currie's testimony are discussed below under
2 the following headings:

3 III. Summary and Findings

4 IV. Lack of Foundation for Proposed Surcharges

5 V. Hazardous Materials Charges Imposed by Competitors Are Not Applicable

6 VI. Classification and Pricing Criteria

7 VII. Surcharges Will Not Provide the USPS With More Refined Data

III. SUMMARY AND FINDINGS

Based on my review of the testimony submitted by USPS Witness Currie, his responses to interrogatories and filed library reference/workpapers, I find that Witness Currie's proposed surcharges for HMM are not supported by the evidence of record and, in addition, his testimony does not support the proposed surcharge for HMM for LabOne, et al.'s clinical specimens. My findings are summarized below:

1. From an economic perspective, a surcharge is applicable in special situations when justified by unusual costs that are incurred, to recognize special market considerations or as a short run adjustment to revenues. The USPS' proposed HMM surcharge as developed by Witness Currie does not meet any of these criteria.
2. In order for a surcharge to be applied to HMM, the costs of handling that material and the volumes impacted must be known. Witness Currie admits that he does not know the extra costs incurred to handle HMM and does not know the volume of mail that will be impacted by the surcharge (Currie, pages 15-17).
3. Witness Currie's "special costs" related to the special handling and transportation of HMM are not quantified and he admits the additional handling is not applicable to LabOne, et al.'s clinical specimens because that mail is not treated as "outside pieces" (Currie, pages 8-9).
4. Witness Currie's costs related to training and handling procedures for HMM are not quantified and he admits that these costs are not "attributed" to individual mail subclasses and special services, but rather accounted for as institutional costs (Currie, page 11).
5. The proposed surcharge, as applied to LabOne, et al.'s volumes of 1.7 million pieces per year increase USPS' revenues by approximately \$850,000. This surcharge is not applicable to LabOne, et al.'s volumes because Witness Currie's "Summary of Incidents" related to hazardous materials as found in Library Reference PCR-26 does not reflect current data and does not show examples related to clinical specimens that demonstrate the justification of a surcharge.

- 1 6. The lack of a surcharge on HMM, which according to Witness Currie will generate
2 approximately \$5 million per year, will not impact the USPS' proposed rate structure
3 for First Class Mail.
- 4 7. The extra costs for industry surcharges and examples related to air transportation
5 restrictions and airlines' refusals are not quantified by witness Currie and are not
6 applicable to LabOne, et al.'s clinical specimens.
- 7 8. Witness Currie's evaluation of the classification and pricing criteria does not provide
8 justification for a surcharge for clinical specimens.
- 9 9. A surcharge should not be utilized as a means of providing data regarding HMM to the
10 USPS.

1 **IV. LACK OF FOUNDATION FOR PROPOSED SURCHARGES**

2 The surcharges proposed by Witness Currie are totally without support or justification. The
3 proposed surcharges do not agree with the intent of surcharges from an economic perspective,
4 are not supported by cost studies, cannot be justified based on past occurrences of spills or
5 clean-ups, and cannot be rationalized based on other market factors. My discussion of these
6 issues is summarized under the following topics:

7 A. Economic Perspective for Surcharges

8 B. Past PRC Acceptance of Surcharges Have Been Based on Quantified Costs

9 C. Witness Currie's Cost Justification

10 D. Witness Currie's Aggregate Surcharge Calculation

11 E. Clean-up of HMM

12 F. Impact on Proposed First Class Rates

13 G. Other Industry Costs

14 **A. ECONOMIC PERSPECTIVE FOR SURCHARGES**

15 A surcharge is defined as a "charge above the usual or customary charge"^{3/}. From an
16 economic perspective, in order for a surcharge to be justified, the surcharge must reflect the
17 need to recover a cost that the customary charge does not meet, an adjustment to consider the
18 failure of the customary charge to reflect the appropriate market price, or be of a short-term
19 nature to reflect some special situation. For example, in periods of high inflation in fuel prices,

^{3/} Transportation Logistics Dictionary, The Traffic Service Corporation, 1982.

1 trucking companies may impose a surcharge to recoup the increased costs of fuel. Similarly,
2 in periods of inclement weather, taxis may have the authority to increase fees (i.e., apply a
3 surcharge) to recognize significant (and short term) changes in the market for their services.
4 Witness Currie's proposed surcharges do not have the underlying support of cost data or market
5 data to justify the proposed surcharges.

6 **B. PAST PRC ACCEPTANCE OF**
7 **SURCHARGES HAVE BEEN**
8 **BASED ON QUANTIFIED COSTS**

9 Proposed surcharges in the past PRC decisions in R78-1 through R90-1 have been based on
10 USPS cost studies "restricted to the additional costs shown"^{4/} and "in previous cases the
11 Commission has not added any contingency when developing a surcharge..."^{5/} In R84-1, the
12 PRC recommended a \$.10 Nonstandard Surcharge for First-Class mail that was based on a USPS
13 cost study^{6/}. This study was a USPS library reference which updated the cost study supporting
14 the establishment of the Nonstandard Surcharge in Docket No. R78-1.

15 Witness Currie in the R97-1 proceeding states that he does not know the extra costs for
16 handling HMM and therefore the contribution to institutional costs is not known.

17 **C. WITNESS CURRIE'S COST JUSTIFICATION**

18 Witness Currie lists various types of costs that he assumes are associated with clinical
19 specimens specifically and hazardous materials in general (Currie, pages 6-12). He believes

^{4/} Docket R87-1, Opinion and Recommended Decision, Volume 1, pages 450-451.

^{5/} Docket R84-1, Opinion and Recommended Decision, Volume 1, pages 330-331.

^{6/} PRC also recommended a Fourth Class Nonmachineable Surcharge, established in R80-1, based on the USPS' cost study.

1 that the proposed surcharges will recognize the "special costs" that are related to the risks of
2 handling and transporting HMM including the costs of training employees, clean-up costs from
3 spills and contamination and other costs such as those incurred due to air transportation
4 restrictions or an airlines' refusal to transport hazardous material.

5 Witness Currie goes into detail on the current Postal Service regulations for handling HMM
6 and the precautions and practices followed by the USPS, but he never quantifies these associated
7 costs and expenses. For example, Witness Currie claims that the handling procedures for HMM
8 pieces are more costly because HMM cannot be processed on automated equipment and are
9 diverted to the manually-processed mailstream. Also, Witness Currie asserts, without support,
10 that "relative to the other items in the manually-processed mailstream, HMM pieces appear to
11 have higher processing costs because employees are understandably more cautious in handling
12 them." (Currie, page 8) Witness Currie does not offer any information in his testimony or
13 discovery responses to support this assertion. Witness Currie does admit, however, that the
14 special handling of "outside" pieces (i.e., HMM) is not applicable to all medical mailings,
15 specifically clinical specimens (Currie, pages 8-9). In essence, Witness Currie's claimed costs
16 are not applicable to Lab One et al.'s mail.

17 When asked to identify and provide the attributable costs associated with the proposed
18 surcharges that "recognize the special costs of handling these materials, [and] improve the
19 alignment of prices with costs" for the two types of hazardous materials, Witness Currie states
20 that "As noted in my testimony at page 16, the Postal Service has not been able to quantify the

1 costs associated with these two types of hazardous materials."^{2/} Nor, as pointed out, have they
2 been able to differentiate which types of HMM the costs are attributed too, specifically clinical
3 specimens like those mailed by Lab One, et al.

4 Witness Currie also asserts that the surcharge should recoup the costs of training employees
5 to handle hazardous material (Currie, page 11). He provides estimates of hourly wages and the
6 amount of time related to the training, but does not provide the number of employees that
7 require training and the aggregate expenses that would be applicable to his estimated 10.5
8 million pieces subject to the surcharge. Furthermore, Witness Currie admits that the "Postal
9 Service training costs are generally not 'attributed' to individual mail subclasses and special
10 services, but rather are accounted for as institutional costs." (Currie, page 11) Thus, training
11 is not a volume variable cost to be recovered by HMM mail, but an institutional cost recovered
12 by all mail.

13 **D. WITNESS CURRIE'S AGGREGATE SURCHARGE CALCULATION**

14 Witness Currie's Appendix A "Volume and Revenue Assumptions" calculates the
15 revenue expected from the HMM and OMHM surcharges. Besides the fact that the required
16 revenues are not cost based, Witness Currie's revenues are admittedly assumptions and do not
17 provide actual volume, per piece weight and postage, or actual elasticities for HMM in his
18 calculations. Surcharge revenues in Witness Currie's Appendix A are based on a "round
19 number" volume estimates that might be subject to the proposed surcharges based on assumed
20 price elasticities (Currie, Page A-1 to A-2). When asked to show the derivation of his volumes,

^{2/} OCA/USPS-T11-1, Docket No. MC97-2.

1 Witness Currie claims that the volumes were estimates "generated judgmentally"^{8/}. Without
2 volume data, Witness Currie must also estimate his average weight per piece of 8 ounces.
3 LabOne et al.'s clinical specimens show that this estimate of weight and, therefore, postage per
4 piece utilized by Witness Currie is higher than LabOne et al.'s average weight per piece of
5 approximately 4 ounces.

6 Witness Currie's price elasticities are also assumptions that are "roughly equal to the
7 Priority Mail price elasticity" (Currie, page A-1) because "Priority Mail appeared to provide the
8 closest available match to the shape, weight, and service characteristics of HMM mail."^{9/} Even
9 accepting Currie's estimate of 8 ounces per piece for HMM, the Priority Mail's average weight
10 per piece of 2.11 pounds^{10/} is not comparable. In summary, Witness Currie's Appendix A
11 incorrectly calculates expected revenues because they are based on assumptions made in his
12 volumes, average weight per piece and prices elasticities.

13 **E. CLEAN-UP OF HMM**

14 Witness Currie attempts to justify the surcharge by showing that HMM packages
15 occasionally fail during handling and transportation resulting in clean-up costs from the spills
16 and contamination. As support, he provides the "Summary of Incidents" reported from October
17 1991 to November 1994 found in Library Reference PCR-26 ("PCR-26"). I have four
18 observations regarding this study. First the data is outdated. LabOne, et al. currently provide

^{8/} Response to interrogatory OCA/USPS-T11-9 in MC97-2.

^{9/} Response to interrogatory OCA/USPS-T11-10 in MC97-2.

^{10/} USPS-T33, page 18.

1 state-of-the art packaging which is frequently updated (and approved by USPS) to prevent
2 leakage and spills.

3 Second, nowhere in the summary in PCR-26 are the costs and expenses related to the clean-
4 up of the incidents provided. Furthermore, the cause of the incidents are often described as the
5 result of handling, equipment failure or unknown and not necessarily a result of poor packaging
6 or labelling of the hazardous material.

7 Third, the summary of incidents in PCR-26 also does not differentiate among the types of
8 hazardous materials as categorized by Witness Currie. The data in PCR-26 contains numerous
9 types of hazardous materials, including what may be HMM.

10 Fourth, the proposed surcharge would add approximately \$850,000 per year related to
11 LabOne, et al.'s mail. The nonapplicable and unquantified costs related to the incidents in PCR-
12 26 do not support the additional charge to LabOne, et al.

13 **F. IMPACT ON PROPOSED FIRST CLASS RATES**

14 USPS Witness Fronk provides the before and after volumes and revenues in his "First-
15 Class Summary: Total Class and Subclass FY 1998 Before and After Rates". If Witness
16 Currie's estimate of the revenues related to the surcharge of \$5.25 million were eliminated from
17 the "After Rates" revenue, there would be no effect on the proposed First Class base rate of
18 \$0.33 per piece. The revenues generated by the proposed surcharge of approximately \$5 million

1 accounts for \$.00005 per piece for First Class mail^{11/}. Such a reduction in First Class revenues
2 would not require an adjustment to the base rates for First Class mail.

3 **G. OTHER INDUSTRY COSTS**

4 Witness Currie also attempts to use the costs related to air transportation restrictions and the
5 costs associated with the airlines' refusal to transport certain hazardous materials as support of
6 the costs the surcharges will cover. In response to OCA's interrogatory OCA/USPS-T11-5 in
7 Docket No. MC97-2, Parcel Classification Reform, 1997, Witness Currie provides a summary
8 of refusal rates by airport and admits that the "refusal rates range widely, from 0 percent to 100
9 percent, depending in part upon the mailers and delivery customers served by a particular
10 facility."^{12/} Nowhere does Witness Currie identify the type of hazardous material that was
11 refused transportation nor does he quantify or offer any of the costs and expenses related to
12 those refusals.

^{11/} \$5 million divided by 101,074 million pieces.

^{12/} OCA/USPS-T11-5, Docket No. MC97-2.

**V. HAZARDOUS MATERIALS CHARGES IMPOSED
BY COMPETITORS ARE NOT APPLICABLE**

Witness Currie supports his proposed surcharges on hazardous materials by reviewing the practices of the Postal Service's competitors. By assuming the USPS' costs are similar to the rest of the industry, he claims that the USPS' costs for handling the hazardous materials have increased, similar to the rest of the industry, and that the USPS can "recoup" these increased expenses by applying a surcharge, thus maintaining the same procedures as other carriers.

Although Witness Currie may be correct in claiming that the USPS is the only one that does not have a surcharge on hazardous materials, he is incorrect in stating that all the carriers he identifies actually charge all hazardous materials additional fees for their processing, especially clinical specimens. Based on information provided by LabOne, et al., the clinical specimens transported by means other than the USPS do not receive an additional surcharge. Even Witness Currie acknowledges that carriers such as Emery Worldwide will avoid surcharges if packaging and accounts are pre-approved (Currie page 14).

However, Witness Currie's discussion misses the point. The choice of the carrier selected is based on total delivered cost and other market factors (such as speed of delivery or the ability to trace a shipment). The comparison of the USPS' proposed surcharge is irrelevant without consideration of the base charge and the quality of the overall service. Therefore, the comparison of the other carriers' charges cannot be the basis for justifying the USPS' proposed surcharge.

1 **VI. CLASSIFICATION AND PRICING CRITERIA**

2 Witness Currie examines 5 classification criteria and 8 pricing criteria in evaluating the
3 proposed HMM surcharge (Currie, pages 14-17). Witness Currie's evaluation of the
4 classification and pricing criteria is erroneous and incomplete as he applies it to clinical
5 specimens. Each criteria is discussed below.

6 **A. CLASSIFICATION CRITERIA**

7 First, Witness Currie believes the additional costs offset by the surcharge will no longer be
8 covered by all other mail and therefore will provide "fairness and equity" as described in
9 criterion 1. As explained above, Witness Currie has not presented any quantified evidence
10 related to his cost assumptions nor has he been able to differentiate among which types of HMM
11 that his assumed additional costs are associated with. He also describes some of the costs as
12 institutional costs which are applicable to the entire spectrum of mailers. Aside from the reasons
13 provided on why clinical specimens do not cause the additional costs and why the surcharge
14 should not be applicable to these pieces, it is obvious that a rate increase of 87% for LabOne,
15 et al. pieces due to the surcharge is not fair or equitable.

16 With respect to Witness Currie's use of criterion 2, he is correct in that the laboratories'
17 ability to transport their services through the "mail is of considerable value to the sender and
18 recipient..." (Currie, page 14). Yet, other mailing alternatives are not as less convenient or
19 more costly as he portrays when considering all factors such as the speed of delivery or ability
20 to track a package.

1 Criterion 3 and 4 were found by witness Currie to not be relevant to the surcharges. I
2 disagree. Speed and reliability are two components of these criteria. These issues are
3 considered by LabOne, et al. in decisions related to the choice of the USPS versus other
4 carriers.

5 Witness Currie claims that criterion 5 is met because alternative carriers are available at
6 a reasonable cost. I disagree for two reasons. First, the services provided by alternative
7 carriers are not necessarily comparable. Second, Witness Currie's analysis of the cost of
8 alternative carriers is flawed as discussed above and he fails to have any quantitative analysis
9 supporting his claims.

10 **B. PRICING CRITERIA**

11 Witness Currie claims that criterion 1 of the pricing criteria "promotes fairness and equity"
12 because the costs of HMM are not recouped by nonhazardous mail (Currie, page 16). This is
13 false for 2 reasons. First, Witness Currie has not developed the increased costs associated with
14 HMM. Second, some of the areas of unquantified costs discussed by Witness Currie are
15 institutional costs and should be recouped by all mail.

16 Regarding criterion 2, value of service, I agree with Witness Currie that the value of service
17 is high and that mail, such as LabOne et al.'s specimens, travel First Class. However, this does
18 not justify a surcharge for LabOne et al.'s mail.

1 Witness Currie's opinion of criterion 3 leads him to conclude that the additional costs,
2 although not quantified, justify the surcharge. As stated above, additional costs have not been
3 demonstrated so this criterion cannot be utilized to support the surcharge.

4 Criterion 4 refers to the effect on other providers of similar services. Witness Currie asserts
5 that the increased rates due to the surcharge will "presumably be beneficial" on private sector
6 providers (Currie, page 16). I disagree for 2 reasons. First, Witness Currie has assumed this
7 criterion only refers to other carriers of similar services. The proper consideration is the effect
8 on the general public and business mail users. This surcharge will not be beneficial for the
9 people who request tests from LabOne et al. or the businesses that submit the clinical specimens
10 because the increased costs may ultimately be borne by those people or businesses. Second,
11 Witness Currie assumes an average postage rate of \$2 to \$3 per piece. Contrary to this
12 unsupported amount, LabOne et al.'s actual average postage rate is \$0.57 per piece and the
13 proposed surcharge reflects an increase of 87 percent over current rates.

14 For criterion 5, Witness Currie believes no issue exists because alternate means "are
15 available from private sector providers at reasonable costs" (Currie, page 17). As discussed
16 above, Witness Currie has not examined the actual costs of other providers. In addition, his
17 claims of surcharges imposed by other providers is erroneous as related to LabOne et al.'s
18 clinical specimens.

19 Witness Currie claims that criterion 6, mailer preparation, does not apply. I disagree.
20 LabOne, et al. have very specific preparation requirements and the LabOne, et al. mail is clearly

1 marked to meet DMM specifications. The clinical specimens mailed by LabOne, et al. have a
2 *high degree of mailer preparation.*

3 Criterion 7 relates to the complexity of the rate structure. Witness Currie suggests that the
4 application of the surcharges will be simple, however, based on current procedures, the USPS
5 cannot currently identify the number of pieces which will be impacted. Thus, while the rate
6 structure is simple, the application to Lab One, et al.'s mail will potentially require changes to
7 the treatment of LabOne et al.'s mail.

8 Witness Currie does not consider and completely ignores the "scientific and informational
9 value" to the mail recipient as described in criterion 8. Clinical specimens are taken for the sole
10 purpose of providing scientific information to the recipients which is directly related to the
11 health, safety and well being of individuals, families and workplaces. Therefore, criterion 8 is
12 of substantial importance.

**VII. SURCHARGES WILL NOT PROVIDE
THE USPS WITH MORE REFINED DATA**

Witness Currie believes that the surcharge will provide a means of improving USPS data on hazardous materials, (Currie, page 17) but it is evident that better communication between the USPS and its mailers and not arbitrary rate increases would be a better means in providing the necessary information. Any surcharge cannot be imposed until accurate research is done on the costs incurred by the USPS, the impact on the market for HMM and the actual volume that will be subject to the surcharge.

STATEMENT OF QUALIFICATIONS

My name is Thomas D. Crowley. I am an economist and President of the economic consulting firm of L. E. Peabody & Associates, Inc. The firm's offices are located at 1501 Duke Street, Suite 200, Alexandria, Virginia 22314.

I am a graduate of the University of Maine from which I obtained a Bachelor of Science degree in Economics. I have also taken graduate courses in transportation at George Washington University in Washington, D.C. I spent three years in the United States Army and since February 1971 have been employed by L. E. Peabody & Associates, Inc.

I am a member of the American Economic Association, the Transportation Research Forum, and the American Railway Engineering Association.

I have previously participated in various Postal Rate Commission ("PRC") proceedings. I presented evidence before the PRC regarding rates for Third Class Bulk Rate Regular ("TCBRR") and Fourth Class mail in Docket No. R90-1, Postal Rate and Fee Changes, 1990. I also submitted evidence in PRC Docket No. MC95-1, Mail Classification Schedule, 1995 Classification Reform I, regarding the United States Postal Service's ("USPS") rate proposal for Standard (A) mail.

The firm of L. E. Peabody & Associates, Inc. also specializes in solving economic, marketing and transportation problems. As an economic consultant, I have organized and directed economic studies and prepared reports for railroads, freight forwarders and other carriers, for shippers, for associations and for state governments and other public bodies dealing with transportation and related economic problems. Examples of studies I have participated in

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include organizing and directing traffic, operational and cost analyses in connection with multiple car movements, unit train operations for coal and other commodities, freight forwarder facilities, TOFC/COFC rail facilities, divisions of through rail rates, operating commuter passenger service, and other studies dealing with markets and the transportation by different modes of various commodities from both eastern and western origins to various destinations in the United States. The nature of these studies enabled me to become familiar with the operating and accounting procedures utilized by railroads in the normal course of business.

Additionally, I have inspected both railroad terminal and line-haul facilities used in handling various commodities to various destinations in all portions of the United States. These field trips were used as a basis for the determination of the traffic and operating characteristics for specific movements of coal, both inbound raw materials and outbound paper products to and from paper mills, crushed stone, soda ash, aluminum, fresh fruits and vegetables, TOFC/COFC traffic and numerous other commodities handled by rail.

I have presented evidence before the Interstate Commerce Commission ("ICC") in Ex Parte No. 347 (Sub-No. 1), Coal Rate Guidelines - Nationwide which is the proceeding that established the methodology for developing a maximum rail rate based on stand-alone costs.

Moreover, I have developed numerous variable cost calculations utilizing the various formulas employed by the ICC for the development of variable costs for common carriers with particular emphasis on the basis and use of Rail Form A. I have utilized Rail Form A costing

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principles since the beginning of my career with L. E. Peabody & Associates Inc. in 1971.^{1/} I have also analyzed in detail, the Uniform Railroad Costing System ("URCS") and presented the results of my findings to the ICC in Ex Parte No. 431, Adoption of the Uniform Railroad Costing System for Determining Variable Costs for the Purposes of Surcharge and Jurisdictional Threshold Calculations. I have been involved in the URCS process, either directly or indirectly, since the first interim report of the contractors was released.

I have frequently presented both oral and written testimony before the Surface Transportation Board (and its predecessor, the Interstate Commerce Commission), Federal Energy Regulatory Commission, Railroad Accounting Principles Board, Postal Rate Commission and numerous state regulatory commissions, federal courts and state courts. This testimony was generally related to the development of variable cost of service calculations, fuel supply economics, contract interpretations, economic principles concerning the maximum level of rates, implementation of maximum rate principles, and calculation of reparations, including interest. I have also presented testimony in a number of court and arbitration proceedings concerning the level of rates and rate adjustment procedures in specific contracts.

^{1/} Rail cost finding has been the cornerstone of this firm. Dr. Ford K. Edwards the senior partner of the firm Edwards & Peabody*, was the major architect in the development of Rail Form A. Mr. Peabody carried on this tradition of innovative cost finding until his retirement in 1983. Mr. Peabody's work included participation in the Tennessee Valley Authority's ("TVA") computerization of Rail Form A. Mr. Peabody was a member of a committee of transportation consultants which was organized to assess the TVA procedure in order to make available more complete and simplified input data for the Rail Form A computer program.

* Subsequent to the retirement of Dr. Edwards in 1965, the firm name was changed to L. E. Peabody & Associates, Inc.


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Since the implementation of the Staggers Rail Act of 1980, which clarified that rail carriers could enter into transportation contracts with shippers, I have been actively involved in negotiating transportation contracts on behalf of shippers. Specifically, I have advised shippers concerning transportation rates based on market conditions and carrier competition, movement specific service commitments, specific cost-based rate adjustment provisions, contract reopeners that recognize changes in productivity, and cost-based ancillary charges. In particular, I have advised shippers on the theory and application of different types of rate adjustment mechanisms for inclusion in transportation contracts. As a result of assisting shippers in the eastern and western portions of the United States, I have become familiar with operations and practices of the rail carriers that move traffic over the major rail routes in the United States as well as their cost and pricing practices.

CERTIFICATE OF SERVICE

I hereby certify that I have this date served the instant document on all participants of record in this proceeding in accordance with Section 12 of the Rules of Practice.

Date: February 20, 1998.



R. Dennis Wright